IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

ERIC FLORES,

Plaintiff,

v.

UNITED STATES ATTORNEY GENERAL, **FEDERAL BUREAU OF INVESTIGATION**,

Defendants.

Case No. 3:15-cv-01948-AC

ORDER ADOPTING FINDINGS AND RECOMMENDATIONS

Michael H. Simon, District Judge.

United States Magistrate Judge John V. Acosta issued Findings and Recommendation ("F&R") in this case on October 22, 2015. Dkt. 9. Judge Acosta recommended that the Court dismiss Plaintiff Eric Flores's ("Flores") "Petition to Challenge the Constitutionality of the First Amendment" (Dkt. 2) *sua sponte* as frivolous and malicious under 28 U.S.C. § 1915(e). Judge Acosta further recommended that Flores's *in forma pauperis* status be withdrawn and that Flores's Request for Judicial Notice (Dkt. 3) and Motion to Transfer to Multidistrict Litigation (Dkt. 4) be denied as moot. In making this recommendation, Judge Acosta considered a PACER search showing that Flores has filed more than one action asserting the same claims and Flores's

statement that Flores has filed more than fifty identical actions in more than fifty district courts (Dkt. 4 at 1). Flores listed one address in all his court filings. A copy of the F&R was mailed to Flores at that address. The copy was returned as undeliverable. Dkt. 14. No party has filed objections.

Under the Federal Magistrates Act ("Act"), the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."); *United States. v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review de novo magistrate's findings and recommendations if objection is made, "but not otherwise").

Although review is not required in the absence of objections, the Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the court review the magistrate's findings and recommendations for "clear error on the face of the record."

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Acosta's F&R for clear error on the face of the record. No such error is apparent. Accordingly, the Court ADOPTS Judge Acosta's F&R, Dkt. 9. Flores's

Petition (Dkt. 2) is dismissed. Flores's Request for Judicial Notice (Dkt. 3) and Motion to Transfer to Multidistrict Litigation (Dkt. 4) are denied as moot. The Court further finds that any appeal from this Order would not be taken in good faith and Plaintiff's *in forma pauperis* status is revoked pursuant to 28 U.S.C. § 1915(a)(3).

IT IS SO ORDERED.

DATED this 18th day of November, 2015.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge